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**FISCAL IMPACT STATEMENT**

**LS 7367**

**BILL NUMBER:** SB 599

**NOTE PREPARED:** Jan 21, 2013

**BILL AMENDED:**

**SUBJECT:** Birth and Death Records.

**FIRST AUTHOR:** Sen. Waterman

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill provides that 25% of the fees established and collected from enhanced access to public records must be deposited in the State Archives Preservation and Reproduction Account.

The bill provides, that after June 30, 2014, the State Department of Health shall transfer to the Commission on Public Records all: (1) records concerning certificates of death and certificates of stillbirth, including any accompanying physical and electronic records, 10 years after the death; and (2) records concerning certificates of birth and delayed birth certificates, including any accompanying physical and electronic records, 75 years after the birth.

The bill requires the Commission on Public Records to establish, operate, and maintain a system to accept, store, provide public access to, and issue certificates of birth, death, and stillbirth registrations. It requires that the commission adopt rules under the same terms and conditions that govern the vital records under the vital statistics laws.

The bill requires the State Department of Health to comply with record retention schedules for vital records that are developed by the Commission on Public Records.

The bill also provides criminal penalties for violations.

**Effective Date:** July 1, 2013.

**Explanation of State Expenditures:** *Enhanced Access to Public Records Fees:* The bill provides that 25%

of the fees for enhanced access to public records will be deposited in the State Archives Preservation and Reproduction Account on a monthly basis. Based on the average revenue from these fees for FY 2010 through FY 2012, the transfer could be about \$3.7 M annually. These fees will assist in funding the system to accept vital records by the Indiana Commission on Public Records (ICPR). As of December 31, 2012, the State Archives Preservation and Reproduction Account had a balance of \$180,902.

The average revenue from enhanced access to public records fees collected in FY 2010 through FY 2012 from enhanced access users was about \$14.8 M. These funds are used by the Indiana Office of Technology (IOT) to fund website services and maintenance, capital improvements to the state network, and assist in the expansion of electronic public records availability.

*Indiana Commission on Public Records (ICPR):* The bill requires the ICPR to establish, operate, and maintain a system to accept, store, provide public access to, and issue certificates of birth, death, and stillbirth registrations from records received from the Indiana State Department of Health (ISDH). The ICPR also is required to establish a schedule of fees for copies of vital records that will not exceed the fees charged by ISDH for similar vital records. The bill also requires the ICPR to adopt rules. The requirements of this bill will increase the administrative workload of the ICPR, but the fees charged for copies of vital records and the transfer of enhanced access to public records fees should assist in offsetting the administrative expenses.

*Indiana State Department of Health (ISDH):* The bill requires the ISDH to transfer to the ICPR: (1) all records concerning certificates of death and stillbirth 10 years after the death; and (2) all records concerning certificates of birth 75 years after the birth. The first transfer of these records would have to occur by July 15, 2014, and then the transfer of these records from ISDH to ICPR would occur on a monthly basis. Initially, the transfer of vital records would increase the administrative workload of the ISDH.

The Vital Records Division at ISDH houses certificates of birth, death, and fetal death, paternity affidavits, various court orders, adoption registries, and records of marriage.

*Penalty Concerning Birth Records:* This bill provides a Class D felony for individuals who: (1) make a false or fraudulent statement in applying to the ICPR for a certified copy of a birth certificate; (2) make a false or fraudulent statement in applying to the ICPR for permission to inspect public birth records held by the ICPR; (3) alter, counterfeit, or mutilate a certified copy of a birth certificate issued by the ICPR; or (4) use an altered, counterfeit, or mutilated copy of a birth certificate. Current statute provides the same penalty for individuals applying to local health officers and the state registrar concerning birth records.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$18,582 in FY 2012. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$78,318 in FY 2012. The average length of stay in DOC facilities for all Class D felony offenders is approximately ten months.

**Explanation of State Revenues:** *Fees for Vital Records:* The fees that would be collected by the ICPR under the bill for providing copies of vital records will be deposited in the State Archives Preservation and Reproduction Account. The fees currently charged by the ISDH are deposited in the state General Fund and the Birth Problems Registry Fund. The number of records that will be transferred to the ICPR is unknown, and

the number of requests that may occur for copies of these records is unknown. Therefore, the amount of fees that will be deposited in the State Archives Preservation and Reproduction Account instead of the state General Fund and the Birth Problems Registry Fund is unknown.

The ISDH charges \$8 for each vital records search. If the record is found, one certification is provided at no charge and copies are an additional \$4 each. The ISDH also charges an additional \$2 for birth certificates. This additional fee is deposited in the Birth Problems Registry Fund. In FY 2012, the additional \$2 fee for birth certificates resulted in revenue of \$59,406. Fees for vital records searches resulted in revenue of \$328,334 to the state General Fund in FY 2012.

*Penalty Concerning Birth Records:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the automated record keeping fee (\$5), judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

*Penalty Concerning Vital Records at the ICPR:* The bill provides a Class B misdemeanor for individuals who recklessly violate or fail to comply with the requirements in this bill concerning the vital records system at ICPR. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit or superior court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the automated record keeping fee (\$5), judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

**Explanation of Local Expenditures:** *Penalty Concerning Birth Records:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

*Penalty Concerning Vital Records at the ICPR:* A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

**Explanation of Local Revenues:** *Penalties:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Persons found guilty of a felony or

misdemeanor are also required to pay the document storage fee (\$2), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and the law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund.

**State Agencies Affected:** Indiana State Department of Health; Indiana Commission on Public Records; Indiana Office of Technology; Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Auditor's Data; Caroline Bradley, Indiana Office of Technology, 317-234-3872; Ted Cotterill, Indiana Commission on Public Records, 317-232-3385; Scott Zarazee, Indiana State Department of Health, 317-234-3968; *Indiana Handbook on Taxes, Revenues, and Appropriations*, FY 2012; Indiana Sheriffs' Association, Department of Correction.

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